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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,867	09/26/2001	Michael F. Krieger	0406.0002	1618

7590 11/25/2005  
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EXAMINER

BROWN, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/963,867

Applicant(s)

KRIEGER, MICHAEL F.

Examiner

Christopher J. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3, and 6-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As per claims 1-3, the instant specification says only that “the invention obviates the need for passwords”, it does not state that the only identification required is a biometric signal. These issues are distinctly different. Correction is required.

As per claims 6-8, the examiner could not find in the instant specification any instance of performing multiple authentication processes to determine if the individual is still authorized for access. Correction is required.

Claims 4, and 5 are rejected for containing the same subject matter as previously rejected independent claims 1-3.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 1, and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Subbiah US 6,035,403.**

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As per claims 1-2 Subbiah teaches a biometric access verification system where online biometric identification is required, (Col 5 lines 8-30). Subbiah teaches obtaining and storing a biometric profile for a user to be authorized, (Col 5 lines 8-17). Subbiah teaches a biometric acquisition device for a user to submit a biometric sample, (Col 4 line 65). Subbiah teaches obtaining a current biometric sample from an individual attempting to gain access, (Col 5 lines 20-25). Subbiah teaches comparing the current biometric sample to a previously stored biometric sample and allowing access if the user is authorized (Col 5 lines 22-30).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3, 4, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Subbiah US 6,035,403 in view of Matchett US 5,229,764.**

As per claim 3, Subbiah teaches a biometric access verification system where online biometric identification is required, (Col 5 lines 8-30). Subbiah teaches obtaining and storing a biometric profile for a user to be authorized, (Col 5 lines 8-17). Subbiah teaches a biometric acquisition device for a user to submit a biometric sample, (Col 4 line 65).

Subbiah teaches obtaining a current biometric sample from an individual attempting to gain access, (Col 5 lines 20-25). Subbiah teaches comparing the current biometric sample to a previously stored biometric sample and allowing access if the user is authorized (Col 5 lines 22-30). Subbiah does not teach access to a network.

Matchett teaches using biometrics to gain access to a network, (Col 3 lines 10-15, Col 8 lines 8-11).

It would have been obvious to one of ordinary skill in the art to combine the biometric system of Subbiah with the network access system of Matchett, because the biometrics would enhance network security.

As per claim 4 Subbiah teaches denying access if the user is not authorized, (Col 5 line 28).

As per claims 6-8, Subbiah does not teach multiple authentication processes.

Matchett teaches intermittent biometric authentication where the user is granted access or denied access dependent upon whether the user passes the biometric authentication test, (Col 3 lines 10-44).

It would have been obvious to one of ordinary skill in the art to combine the intermittent authentication of Matchett with the system of Subbiah because it increases system security (Col 3 lines 10-15).

**Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Subbiah US 6,035,403 in view of Matchett US 5,229,764 in view of Canestaro US 6,748,540.**

As per claim 5, the Subbiah-Matchett combination teaches biometric acquisition and storage, (Col 4 lines 45-56).

The Subbiah-Matchett combination does not disclose reporting unauthorized access attempts.

Canestaro teaches reporting a failed access attempts to an administrator for security reasons, (Col 2 lines 12-18, Col 7 lines 7-10). It would be obvious to one of ordinary skill in the art to add Canestaro's reporting failed access attempts with the Subbiah-Matchett biometric access system because it would be advantageous to have an improved method for monitoring unauthorized access attempts to a computer system for administrators, (Col 2 lines 1-10 Canestaro).

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571)272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher J. Brown

11/14/05

A handwritten signature in black ink, appearing to be 'CJB'.A handwritten signature in black ink, appearing to be 'G. Morse'.

GREGORY MORSE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100